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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,542	09/17/2003	Avtar S. Dhindsa	10672/24	5958
757	7590	09/09/2005	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			POUS, NATALIE R	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/665,542

**Applicant(s)**

DHINDSA, AVTAR S.

**Examiner**

Natalie Pous

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/17/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>02/26/04</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: Page 9, line 26, "300" should read --200--.

Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Specification lacks antecedent basis for a rake comprising a plurality of shafts, each shaft comprising a raking portion that extends laterally away from the respective shafts, further comprising transversely extending elements between the shafts as stated in claim 16. The applicant may amend the specification to include the claimed subject matter. *In re Benno*, 768 F.2d 1340, 226 USPQ 683 (Fed. Cir. 1985).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,3 and 7 rejected under 35 U.S.C. 102(b) as being anticipated by Ouchi (US 5993474).

Regarding claim 1, Ouchi teaches an endoscopic debris extraction device comprising:

a support filament (33) comprising a first end portion;

a sheath comprising a lumen (32), the support filament disposed in the

lumen such that the sheath is slideable with respect to the support filament

(Column 1, proximate lines 8-15).

a collapsible rake carried by the first end portion of the support

filament, the rake (5') comprising a plurality of shafts, each shaft comprising a

respective raking portion that extends laterally away from the respective shaft

It is noted that according to Merriam Webster Dictionary, the following is

definition of the term rake; an implement equipped with projecting prongs

to gather material (as leaves) or for loosening or smoothing the surface of

the ground.

the sheath movable with respect to the rake between a first position, in

which the shafts are received within the lumen of the sheath (Figure 7), and a

second

position, in which the shafts extend beyond the sheath and hold the raking

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portions in position for stone raking operations (Figure 6).

Regarding claim 2, Ouchi teaches the invention of Claim 1 wherein the raking portions comprise bent portions of the shafts (5').

Regarding claim 3, Ouchi teaches the invention of Claim 1 wherein the raking portions comprise looped end portions on the shafts (5').

Regarding Claim 7, Ouchi teaches the invention of Claim 3 wherein the looped end portions are joined to the shafts at an angle (5').

Claims 1, 2, 4, 9, 11, 12, 13, 14 and 15 rejected under 35 U.S.C. 102(e) as being anticipated by Foster (US 65001892).

Regarding claim 1, Foster teaches an endoscopic debris extraction device comprising:

a support filament (19) comprising a first end portion (21);

a sheath comprising a lumen (14), the support filament disposed in the lumen such that the sheath is slideable with respect to the support filament

(Column 11, proximate lines 55-65).

a collapsible rake carried by the first end portion of the support

filament, the rake (23) comprising a plurality of shafts, each shaft comprising a respective raking portion that extends laterally away from the respective shaft

(36)

It is noted that according to Merriam Webster Dictionary, the following is definition of the term rake; an implement equipped with projecting prongs

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to gather material (as leaves) or for loosening or smoothing the surface of the ground.

the sheath movable with respect to the rake between a first position, in which the shafts are received within the lumen of the sheath and a second position, in which the shafts extend beyond the sheath and hold the raking portions in position for stone raking operations (Column 11, proximate lines 35-65).

Regarding claim 2, Foster teaches the invention of Claim 1 wherein the raking portions comprise bent portions of the shafts (36).

Regarding claim 4, Foster discloses the invention of Claim 1 wherein the raking portions are received within the lumen of the sheath in the first position operations (Column 11, proximate lines 55-65).

Regarding claim 9, Foster discloses the invention of Claim 1 wherein the shafts are formed continuously with the support filament (Column 2, proximate lines 25-35, Column 4, proximate lines 55-67).

Regarding claim 11, Foster discloses the invention of Claim 1 wherein the shafts comprise a shape memory metal (Column 6, proximate lines 10-31).

Regarding claim 12, Foster discloses the invention of Claim 11 wherein the shape memory metal comprises nitinol (Column 6, proximate lines 10-31).

Regarding claim 13, Foster discloses the invention of Claim 1 wherein the shafts comprise a polymer (Column 5, proximate lines 10-16).

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Regarding claim 14, Foster discloses the invention of Claim 1 wherein the shafts comprise a plastic (Column 5, proximate lines 25-55).

Regarding claim 15, Foster discloses the invention of Claim 1 wherein the shafts comprise a metal alloy (Column 5, proximate lines 5-15).

Claims 1 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Ginsburg (US 4873978).

Regarding claim 1, Ginsburg teaches an endoscopic debris extraction device comprising:

- a support filament (22) comprising a first end portion (32);

- a sheath comprising a lumen (12), the support filament disposed in the lumen such that the sheath is slideable with respect to the support filament (Figs. 2 and 3).

- a collapsible rake carried by the first end portion of the support filament, the rake (14) comprising a plurality of shafts, each shaft comprising a respective raking portion that extends laterally away from the respective shaft

(34)

It is noted that according to Merriam Webster Dictionary, the following is definition of the term rake; an implement equipped with projecting prongs to gather material (as leaves) or for loosening or smoothing the surface of the ground.

the sheath movable with respect to the rake between a first position, in

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which the shafts are received within the lumen of the sheath (Figure 2), and a second

position, in which the shafts extend beyond the sheath and hold the raking portions in position for stone raking operations (Figure 3).

Regarding claim 16, Ginsberg teaches the invention of Claim 1, further comprising transversely extending elements between the shafts (36).

Claims 1, 2, 4, 10, 11, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Tran (US 6679893).

Regarding claim 1, Tran teaches an endoscopic debris extraction device comprising:

a support filament (14) comprising a first end portion (18);

a sheath comprising a lumen (30), the support filament disposed in the lumen such that the sheath is slideable with respect to the support filament

(Column 3, proximate lines 25-40).

a collapsible rake carried by the first end portion of the support

filament, the rake (17) comprising a plurality of shafts, each shaft comprising a respective raking portion that extends laterally away from the respective shaft

(24)

It is noted that according to Merriam Webster Dictionary, the following is definition of the term rake; an implement equipped with projecting prongs



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to gather material (as leaves) or for loosening or smoothing the surface of the ground.

the sheath movable with respect to the rake between a first position, in which the shafts are received within the lumen of the sheath and a second position, in which the shafts extend beyond the sheath and hold the raking portions in position for stone raking operations (Column 3, proximate lines 25-40).

Regarding claim 2, Tran teaches the invention of Claim 1 wherein the raking portions comprise bent portions of the shafts (24).

Regarding claim 4, Tran discloses the invention of Claim 1 wherein the raking portions are received within the lumen of the sheath in the first position operations (Figure 5).

Regarding claim 10, Tran discloses the invention of Claim 1 wherein the shafts are secured to the support filament (Column 3, proximate lines 10-20).

Claims 1,5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Wessman, etal. (US 6706054).

Regarding claim 1, Wessman teaches an endoscopic debris extraction device comprising:

a support filament (20) comprising a first end portion (6.1);

a sheath comprising a lumen (28), the support filament disposed in the

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lumen such that the sheath is slideable with respect to the support filament  
(Column 3, proximate lines 45-56).

a collapsible rake carried by the first end portion of the support  
filament, the rake (6) comprising a plurality of shafts, each shaft comprising a  
respective raking portion that extends laterally away from the respective shaft  
(6.3)

It is noted that according to Merriam Webster Dictionary, the following is  
definition of the term rake; an implement equipped with projecting prongs  
to gather material (as leaves) or for loosening or smoothing the surface of  
the ground.

the sheath movable with respect to the rake between a first position, in  
which the shafts are received within the lumen of the sheath and a second  
position, in which the shafts extend beyond the sheath and hold the raking  
portions in position for stone raking operations (Column 3, proximate lines 45-  
56).

Regarding claim 5, Wessman discloses the invention of Claim 1 wherein the raking  
portions are smoothly rounded at an exposed end (6.6).

Regarding claim 6, Wessman discloses the invention of Claim 1 further comprising  
rounded balls at exposed ends of the raking portions (6.6).

Claims 1,3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillstead  
(US 5098440).

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Regarding claim 1, Hillstead teaches an endoscopic debris extraction device comprising:

a support filament (50) comprising a first end portion;

a sheath comprising a lumen (11), the support filament disposed in the

lumen such that the sheath is slideable with respect to the support filament

(Column 3, proximate lines 35-50).

a collapsible rake carried by the first end portion of the support

filament, the rake (30, 32) comprising a plurality of shafts, each shaft comprising

a respective raking portion that extends laterally away from the respective shaft (34, 36)

It is noted that according to Merriam Webster Dictionary, the following is

definition of the term rake; an implement equipped with projecting prongs

to gather material (as leaves) or for loosening or smoothing the surface of

the ground.

the sheath movable with respect to the rake between a first position, in

which the shafts are received within the lumen of the sheath and a second

position, in which the shafts extend beyond the sheath and hold the raking

portions in position for stone raking operations (Column 3, proximate lines 35-50).

Regarding claim 3, Hillstead teaches the invention of Claim 1 wherein the raking

portions comprise looped end portions on the shafts (126, 128).

Regarding claim 8, Hillstead discloses the invention of Claim 3 wherein there is a

smooth transition from the looped end portions to the shafts (126, 128).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie Pous whose telephone number is (571) 272-6140. The examiner can normally be reached on Monday-Friday 8:00am-5:30pm, except 2nd Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

nrp

  
GLENN K. DAWSON  
PRIMARY EXAMINER

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